

**Lower Similkameen (Smilqmix") Indian Band
Forest and Range Agreement
(the "Agreement")**

between:

**Lower Similkameen Indian Band
as represented by
Chief (ilmix"əm) Barbara Allison (nx"ax"úpna?) and Council**

And

**Her Majesty the Queen in Right of the Province of British Columbia
as represented by the Minister of Forests and Range (and Minister responsible for Housing)
(the "Government of British Columbia")**

(collectively the "parties")

Preamble:

The Lower Similkameen Indian Band asserts that "the (sməlqmix) people of the (suk"na?qinx) Nation are the original inhabitants of the Similkameen Valley with a clearly defined society and relationship (nk"úl'məntət) to the land (təmx"úla?x") and all human (sqilx") and animal (tmix") inhabitants of this land, which is contractual, and is clearly defined within our (captik"i) and our ongoing oral tradition. A foundational Principle which guides (sməlqmix) view of development within all Similkameen traditional territory is stated as follows:

"Activities in the community will be conducted with respect for the Land (təmx"úla?x"), the Traditions (i?_nak"úl'məntət) with Prayer (i?_ank'ámen) and in harmony with our Cultural belief systems (i?_anúnx"ina?tən)

We are further guided by our basic community values which state that "All lands will be developed with respect for the environment and with utmost consideration given to the importance of maintaining Natural resources and Traditional Lands for generation to come" (səx"xt'ám)

It is in this Spirit that this Agreement is entered into from the perspective of the Lower Similkameen Indian Band.

Whereas:

- Lower Similkameen, as represented by the Chief and Council, acts on behalf of the present and future members of the Lower Similkameen Indian Band.

- Her Majesty the Queen in right of British Columbia is represented by the Minister of Forests and Range.
- The Lower Similkameen Indian Band asserts that it has a relationship to the land that is important to their culture and the maintenance of their community, governance and economy.
- The Lower Similkameen Indian Band asserts, as part of the Okanagan Nation, that it has unextinguished aboriginal title, jurisdiction, and rights, which includes the lands that are subject to this Agreement.
- A Government to Government relationship exists between First Nations and the Government of British Columbia.
- In entering into this Agreement the Lower Similkameen Indian Band asserts it is exercising its inherent right of self-government, recognized and affirmed within section 35 of the Constitution Act, 1982.
- This Agreement is not a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982* and does not recognize, define, amend, affirm, deny or limit any priorities afforded to aboriginal rights, including aboriginal title, or treaty rights, other than as provided in this Agreement.
- The parties wish to enter into an interim measures agreement in relation to forest and/or range resource development activities and related economic benefits arising from this development within the Traditional Territory.
- The Government of British Columbia intends to fulfil any responsibility it has to consult and to seek workable accommodation with the Lower Similkameen Indian Band on forest and/or range resource development activities proposed within the Traditional Territory that may lead to the infringement of the Lower Similkameen Indian Band's Aboriginal Interests.
- The Parties acknowledge that the Supreme Court of Canada has identified the obligation of British Columbia to act honourably in its dealings with aboriginal peoples and to consult and, where appropriate, seek a workable interim accommodation where Lower Similkameen's Aboriginal Interests are infringed by proposed activities within the Lower Similkameen Indian Band Traditional Territory.
- The Lower Similkameen Indian Band agrees to participate in any consultation initiated by the Government of British Columbia or a Licensee, in relation to forest and/or range resource development activities proposed within the Traditional Territory, that may lead to an infringement of Lower Similkameen Indian Band's Aboriginal Interests.

- The parties have an interest in seeking an interim workable accommodation of Lower Similkameen Indian Band's Aboriginal Interests where forest and/or range resource development activities are proposed within the Traditional Territory that may lead to the infringement of Lower Similkameen Indian Band's Aboriginal Interests.
- The Government of British Columbia and the Lower Similkameen Indian Band wish to resolve issues relating to forest and/or range resource development activities where possible through negotiation as opposed to litigation or direct action.
- This Agreement does not exclude the Lower Similkameen Indian Band from accessing forestry related economic opportunities and benefits, which may be available from time to time, other than those expressly set out in Section 5 of this Agreement.
- The Chief and Council assert that the Lower Similkameen Indian Band continues to have "capacity" issues that they would like to see addressed in the foreseeable future.
- Lower Similkameen Indian Band's intent is to use this Agreement as a mechanism to increase economic stability for their community.
- Lower Similkameen Indian Band is supportive of past forest recreation activities and remains interested in any opportunities in forest recreation, sites and trails that may become available through the Ministry of Forests and Range.
- Lower Similkameen Indian Band has made known to the Government of British Columbia their interests in other economic opportunities such as Woodlots, Community Forests, Salvage licences, beetle uplifts, Innovative Forest Practices Agreement volumes and tourism activities that may become available over time.

Therefore the Parties agree as follows:

1.0 Definitions

- 1.1 For the purpose of this Agreement, the following definitions apply:
- 1.2 "Aboriginal Interests" means asserted and/or proven aboriginal rights and/or aboriginal title.
 - 1.2.1 "Cultural component of Aboriginal Interests" means the cultural values and traditional practices of Lower Similkameen Indian Band.
 - 1.2.2 "Economic component of Aboriginal Interests" means financial or commercial aspects of Aboriginal Interests.
- 1.3 "Allowable Annual Cut" (AAC) means the allowable rate of timber harvest from a specified area of land.

- 1.4 “Administrative Decision” means one or more of the following decisions made by a person under forestry legislation:
- the decision setting or varying the allowable annual cut (AAC) for a timber supply area or a Forest Tenure;
 - the issuance, consolidation, subdivision, amendment, or boundary adjustment of a Forest Tenure or Range Tenure where these events may have an impact on Aboriginal Interests;
 - the adjustment of animal unit months in a Range Tenure;
 - the replacement or extension adjustment of a Forest Tenure or a Range Tenure;
 - the disposition of volumes of timber arising from undercut decisions on a Forest Tenure;
 - the issuance of a special use permit;
 - the reallocation of harvesting rights as a result of the implementation of the *Forestry Revitalization Act*;
 - the decision regarding a tree farm licence management plan, community forest management plan and/or woodlot licence management plan; and
 - the deletion of land from provincial forest; and the transfer of AAC between TSAs.
- 1.5 “Consult” means the processes as set out in Sections 7 and 8 of this Agreement.
- 1.6 “Forest Tenure” means an agreement granting rights to harvest crown timber under the Forest Act that is defined as a major licence, including the woodlot licence and community forest agreement.
- 1.7 “Licensee” means a holder of a Forest Tenure or a Range Tenure.
- 1.8 “Operational Decision” means a decision that is made by a person with respect to the statutory approval of an Operational Plan.
- 1.9 “Operational Plan” means a forest development plan, a forest stewardship plan, a woodlot licence plan, a range use plan, or a range stewardship plan that has an effect within the Traditional Territory.
- 1.10 “Range Tenure” means an agreement granting rights over crown range as defined in the Range Act.
- 1.11 “Response Period” means a period of up to 60 days from initiation of the processes set out in Sections 7 and 8 of this Agreement where the initiation date is the date on which Lower Similkameen Indian Band is notified of an Administrative Decision or timber supply review process, or in the case of Operational Plan reviews, the date on which Lower Similkameen Indian Band receives the plan to be reviewed. Where an emergency operation arises and/or expedited salvage has to occur, the Response Period will be shortened accordingly, but will not be less than the time period for advertising Operational Plans for those operations.

- 1.12 "Suxwtxttem" is an Okanagan word meaning sustaining the diversity of species and their habitats in perpetuity for the well-being of future generations.
- 1.13 "Traditional Territory" means the Lower Similkameen Indian Band asserted traditional territory as shown on bold black on the map attached in Appendix A.

2.0 Interpretation

- 2.1 This Agreement and its implementation shall not affect the Okanagan Nation or other First Nations within the Okanagan Nation in the assertion of their aboriginal rights and title.
- 2.2 Nothing in this Agreement or any record created pursuant to it is intended to create, recognize, limit or deny any aboriginal rights, or the legal relationship between Parties with respect to such rights, or alter or affect the legal status of lands or resources within the Province or the existing authorities of British Columbia, except as this Agreement otherwise provides.
- 2.3 This Agreement and any record created pursuant to it is not intended to limit any position any Party may take in future negotiations on the accommodation of Lower Similkameen Indian Band Aboriginal Interests other than as addressed by this Agreement.
- 2.4 This Agreement is not a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act*.
- 2.5 Nothing in this Agreement shall restrict or limit the right of Lower Similkameen Indian Band or its members to collectively or individually apply to benefit from any program of the British Columbia available to them as aboriginal people or otherwise.

3.0 General Intent

- 3.1 The intent of this Agreement is to address consultation and to provide a workable interim accommodation, as set out in this Agreement, with regard to any infringements of Lower Similkameen Indian Band Aboriginal Interests that may result from Administrative Decisions and/or Operational Decisions relating to forest and/or range resource development activities within the Traditional Territory during the term of this Agreement.
- 3.2 The intent of this Agreement is also to further facilitate Lower Similkameen Indian Band's role in forestry management on Traditional Lands through the provision of economic benefits to the Lower Similkameen Indian Band through further forest tenure opportunities on specified lands and a sharing of revenues received by the Government of British Columbia from forest resource development activities.

- 3.3 Any moneys paid or timber resource attributed to Lower Similkameen Indian Band in this Agreement shall not be counted against any settlement achieved in any future comprehensive land claim negotiations, or other negotiations concerning non-forestry or range resources, without the express agreement of the Parties, for the term of this Agreement.
- 3.4 The Chief and Council of the Lower Similkameen Indian Band view the economic benefits described in this Agreement as interim and workable rather than a “full” and “reasonable” settlement of their aboriginal rights and aboriginal title claims.

4.0 Purpose

The purposes of this Agreement are to:

- 4.1 Increase the Lower Similkameen Indian Band’s opportunity for participation in the forest sector.
- 4.2 Provide economic benefits to the Lower Similkameen Indian Band through a forest tenure opportunity, potential range tenure opportunity and/or the sharing of revenues received by the Government of British Columbia from forest resource development activities.
- 4.3 Address consultation and provide an interim workable accommodation, as set out in this Agreement, with regard to any infringements of Lower Similkameen Indian Band’s Aboriginal Interests that result from Administrative Decisions and/or Operational Decisions relating to forest and/or range resource development activities within the Traditional Territory, during the term of this Agreement.
- 4.4 Provide a period of stability to forest and/or range resource development activities on Crown lands within the Traditional Territory during the term of this Agreement, while longer-term interests are addressed through other agreements or processes.

5.0 Economic Benefits to Lower Similkameen Indian Band

During the term of this Agreement, the Government of British Columbia will adopt the consultation processes set out in Sections 7 and 8 of this Agreement and will provide one or more of the following economic benefits to Lower Similkameen Indian Band to address consultation and to provide an interim workable accommodation, as set out in this Agreement, in respect of any infringements of Lower Similkameen Indian Band’s Aboriginal Interests that result from Administrative Decisions and/or Operational Decisions relating to forest and/or range resource development activities within the Traditional Territory.

5.1 Forest Tenure

- 5.1.1 After the execution of this Agreement by the parties, and after the Minister has determined that sufficient volume of timber is available for disposition to Lower Similkameen Indian Band as a result of the implementation of the Forestry Revitalization Act, the Minister will invite Lower Similkameen Indian Band to apply under Section 47.3 of the Forest Act for a non-replaceable licence (the “Okanagan licence opportunity”) for up to 13,500 cubic meters annually in the Okanagan Timber Supply Area. The invitation will invite an application from the Lower Similkameen Indian Band or such legal entity as the Lower Similkameen Indian Band has appointed as its representative to hold the licence. Supporting documentation is specified within Appendix B of this Agreement.
- 5.1.2 If during the term of this Agreement a volume uplift becomes available in either the Okanagan, Merritt or Boundary Timber Supply Areas, the Minister may invite the Lower Similkameen Indian Band to apply for a non-replaceable forest licence (the “Okanagan, Merritt or Boundary uplift licence opportunity”) in accordance with Section 47.3 of the *Forest Act* to harvest up to a total of 53,490 cubic metres over a 5-year term in either the Okanagan, Merritt or Boundary Timber Supply Areas.
- 5.1.3 If the Okanagan licence opportunity and the Okanagan uplift licence opportunity are both entered into, the Parties may consolidate these two licences into one licence, in accordance with the *Forest Act*.
- 5.1.4 For greater certainty, the maximum volume that may be available under the licence(s) referred to in Section 5.1.1 and 5.1.2 will be up to 120,990 cubic meters over 5 years.
- 5.1.5 If the intended holder of the licence(s) is a legal entity other than the Lower Similkameen Indian Band, the Lower Similkameen Indian Band must supply the Government of British Columbia with the supporting documentation stating that the intended holder has been validly appointed by the Lower Similkameen Indian Band as its representative.
- 5.1.6 An invitation to apply for any of the licences (an “invitation”) and any licence entered into as a result of the invitation to apply under this Agreement will be subject to the policies, regulations and statutes of British Columbia as amended from time to time.
- 5.1.7 An invitation will be subject to a condition that prior to Lower Similkameen Indian Band making an application for the licence(s), the Lower Similkameen Indian Band will contact the Ministry of Forests and Range to discuss and provide input to assist the Ministry of Forests and Range in identifying operating areas for the licence(s). If possible, the operating area will be within the Lower Similkameen Indian Band’s Traditional Territory with emphasis on the Ashnola and Paul Creek areas.

- 5.1.8 A licence entered into as a result of an invitation to apply under Section 5.1.1 or 5.1.2 of this Agreement will:
- 5.1.8.1 be for a term of no longer than 5 years, as determined by the Minister;
 - 5.1.8.2 contain other terms and conditions required by law, including the condition that Lower Similkameen Indian Band must comply with this Agreement;
 - 5.1.8.3 include a term that Lower Similkameen Indian Band may not dispose of the licence except in accordance with the *Forest Act*;
 - 5.1.8.4 include other terms and conditions as may be required by the regional manager; and
 - 5.1.8.5 be subject to any Allowable Annual Cut adjustments in the Okanagan Timber Supply Area that result from the implementation of land use planning decisions.
- 5.1.9 Subject to:
- 5.1.9.1 the Government of British Columbia and Lower Similkameen Indian Band entering into another interim measures agreement providing for an invitation to apply for a licence; and
 - 5.1.9.2 the Minister determining that there is sufficient volume of timber available for disposition to Lower Similkameen Indian Band,
- the Minister may invite Lower Similkameen Indian Band to apply for a subsequent licence under the *Forest Act* for a term that would commence after the expiry of this Agreement.
- 5.1.10 If the term of licence entered into as a result of an invitation to apply under this Agreement exceeds the term of this Agreement, then that licence may be referenced in and considered to be an economic benefit that addresses consultation and provides an interim workable accommodation in respect of any infringement of Lower Similkameen Indian Band's Aboriginal Interests, in any subsequent forest and range agreement between Lower Similkameen Indian Band and the Government of British Columbia, for the purposes described in Section 5.0.
- 5.1.11 The Parties will meet from time to time to review forest business opportunities that may be available to the Lower Similkameen Indian Band.

- 5.2 Nothing in this Agreement excludes the Lower Similkameen Indian Band from accessing other forestry economic opportunities, which may be available from time to time.
- 5.3 The Government of British Columbia does not guarantee the financial outcomes of any Forest and/or Range Tenures made available to Lower Similkameen Indian Band pursuant to this Agreement.

5.4 Range Tenure

The parties will review new range vacancies that become available in the Lower Similkameen Indian Band Traditional Territory and that may be available for disposition to the Lower Similkameen Indian Band through the direct award of range permits(s) under the *Range Act*.

5.5 Revenue Sharing

- 5.5.1 During the term of this Agreement, the Government of British Columbia will pay to Lower Similkameen Indian Band approximately \$224,051 annually for purposes described in Section 5.0.
- 5.5.2 The funding commitment set out in Section 5.5.1 is subject to the availability of annual appropriations for that purpose by the Government of British Columbia.
- 5.5.2.1 For the purpose of determining amounts for partial years, one-fourth (i.e., $\frac{1}{4}$) of the annual amount will be used for each fiscal quarter or part thereof that the Agreement is in effect. Payments will be made quarterly.
- 5.5.2.2 Upon signing of this Agreement, the Lower Similkameen Indian Band will be paid the full revenues for the quarter in which the Agreement is signed with subsequent payments being made at the end of each quarter.
- 5.5.2.3 Lower Similkameen Indian Band will maintain financial records and prepare financial statements in accordance with generally accepted accounting principles for each year of this Agreement.
- 5.5.2.4 Upon request, Lower Similkameen Indian Band will conduct an audit of the revenue sharing expenditures and will provide a copy of the audit to the Government of British Columbia.

6.0 Forest and Range Stewardship

- 6.1 Both parties recognize that Lower Similkameen Indian Band shares common interests with Government of British Columbia stewardship principles.

- 6.2 Both parties will undertake to advance mutual understanding of Lower Similkameen Indian Band's Suxwtxtem principles between the parties.
- 6.3 Further to Section 6.2 where consistent with both parties interests, the parties agree to explore opportunities to include Suxwtxtem principles related to protection and conservation of cultural heritage sites, diversity and sustainable management of flora and fauna, wildlife and watershed values in Lower Similkameen Indian Band's Traditional Territory, in Operational Decisions to the extent that doing so is consistent with the Ministry of Forests and Range's statutory jurisdiction, authority and responsibilities, other Provincial legislation, and contractual obligations to Licensees.

7.0 Consultation and Accommodation Regarding Operational Plans

- 7.1 The Government of British Columbia agrees to consult with Lower Similkameen Indian Band on Operational Plans that may potentially infringe Lower Similkameen Indian Band's Aboriginal Interests within the Traditional Territory, except for any economic component of those interests that the parties agree are addressed by the economic benefits provided for under Section 5.0 of this Agreement.
- 7.2 During the term of this Agreement, and subject to the Government of British Columbia being in compliance with all other conditions and provisions in this Agreement, Lower Similkameen Indian Band agrees that the economic benefits provided in Section 5 are an acceptable interim accommodation with respect to the economic component of potential infringements of Lower Similkameen Indian Band's Aboriginal Interests in the context of Operational Decisions that the Government of British Columbia will make and any forest practices or range practices that may be carried out under an Operational Plan in the Traditional Territory.
- 7.3 For the purposes of this Section, "workable accommodation" means modifications made to Operational Plans in response to concerns raised by Lower Similkameen Indian Band and may include spatial or temporal changes, different harvesting systems or similar modifications.
- 7.4 Lower Similkameen Indian Band intends to fully participate, as set out in this section, in the review of all Operational Plans dealing with forest and/or range resource development activities within the Traditional Territory provided to them by the Government of British Columbia, and by Licensees.
- 7.5 In reviewing and responding to an Operational Plan submitted to them, Lower Similkameen Indian Band will, within the Response Period, provide the party that supplied the plan to them with all reasonably available information that will identify any potential impacts to their Aboriginal Interests that may occur as a result of proposed forest and/or range resource development activities within the Traditional

Territory, other than the economic component of those interests that the parties agree are addressed by the economic benefits provided for under Section 5.0.

- 7.6 Upon receiving the response from Lower Similkameen Indian Band as specified in Section 7.5, the Government of British Columbia and/or the Licensee will discuss and attempt to resolve with Lower Similkameen Indian Band any site specific operational impacts on Lower Similkameen Indian Band's Aboriginal Interests that may occur as a result of proposed forest and/or range resource development activities within the Traditional Territory, other than the economic component of those Aboriginal Interests that the parties agree are addressed by the economic benefits provided for under Section 5.0.
- 7.7 If no response is received from Lower Similkameen Indian Band within the Response Period, then the Government of British Columbia may conclude that Lower Similkameen Indian Band does not intend to respond or participate in the consultation process in respect of the Operational Plan and that a decision on the Operational Plan may proceed.
- 7.8 In making the final decision on an Operational Plan, the Government of British Columbia will fully consider information it receives from Lower Similkameen Indian Band, whether received directly or through a Licensee, and will consider whether concerns identified by Lower Similkameen Indian Band have been addressed.
- 7.9 The Parties will seek to develop a consultation protocol to further describe consultation on Operational decisions as outlined in Section 7.0.

8.0 Consultation and Accommodation Respecting Administrative Decisions

- 8.1 The Government of British Columbia will provide to Lower Similkameen Indian Band on an annual basis a list of all proposed Administrative Decisions anticipated within the year that may have an effect within the Traditional Territory, and either upon the request of Lower Similkameen Indian Band or when the Government of British Columbia becomes aware of other proposed Administrative Decisions, will provide to Lower Similkameen Indian Band an updated list.
- 8.2 The Government of British Columbia will meet with Lower Similkameen Indian Band at mutually agreed times throughout the year to provide an opportunity for Lower Similkameen Indian Band to make known to representatives of the Government of British Columbia their concerns and comments relative to the effects of the Administrative Decision(s) on their Aboriginal Interests within the Traditional Territory.
- 8.3 The Government of British Columbia will meet with the Lower Similkameen Indian Band at mutually agreed times to discuss their Aboriginal Interests with respect to timber supply review processes that will lead to AAC determinations made pursuant to Section 8 of the *Forest Act* for the Merritt, Okanagan, Arrow and Boundary

Timber Supply Areas, and pursuant to Section 59 (7) of the *Forest Act* for the Merritt and Okanagan Innovative Forest Practices Agreements.

- 8.4 The Government of British Columbia will include Lower Similkameen Indian Band in public timber supply review processes that will lead to AAC determinations made pursuant to Section 8 of the *Forest Act* for the Okanagan, Merritt, Arrow and Boundary Timber Supply Areas and pursuant to Section 59(7) of the *Forest Act* for the Merritt and Okanagan Innovative Forest Practices Agreement.
- 8.5 Lower Similkameen Indian Band agrees to fully participate, within the Response Period, in public timber supply review processes by providing all reasonably available information about their Aboriginal Interests within the Traditional Territory potentially affected by AAC determinations to be made pursuant to Section 8 of the *Forest Act*. The Lower Similkameen Indian Band Chief and Council will encourage Lower Similkameen Indian Band Elders to make oral presentations.
- 8.6 The parties acknowledge that the public timber supply review processes will be consistent with approved land use plans when higher-level objectives have been established.
- 8.7 If, after considering the concerns and comments of Lower Similkameen Indian Band, the statutory decision maker is of the opinion that an Administrative Decision creates a potential infringement of Lower Similkameen Indian Band's Aboriginal Interests that is not adequately addressed by the economic benefits provided by the Government of British Columbia in Section 5.0, the statutory decision maker will seek to address the concerns and comments in the Administrative Decision or through the process in Section 7.0 of this Agreement.
- 8.8 The Government of British Columbia will provide a written response to Lower Similkameen Indian Band as to how their concerns raised in Section 7.2 have been addressed.
- 8.9 Subject to the Government of British Columbia being in compliance with all other conditions and provisions contained in this Agreement, Lower Similkameen Indian Band agrees that in consideration of the economic benefits provided by the Government of British Columbia in Section 5.0 and adherence to the consultation processes in Sections 7.0 and 8.0 of this Agreement, the Government of British Columbia has established an adequate consultation process and provided an acceptable interim workable accommodation with respect to the economic component of potential infringements of Lower Similkameen Indian Band Aboriginal Interests resulting from Administrative Decisions made by statutory decision makers from time to time during the term of this Agreement.
- 8.10 Subject to the Government of British Columbia being in compliance with all other conditions and provisions contained in this Agreement, Lower Similkameen Indian Band further agrees that, in consideration of Sections 8.1 to 8.7 of this Agreement, the Government of British Columbia has, for the purposes of this Agreement,

developed an adequate consultation and interim workable accommodation process with respect to potential infringements of their Aboriginal Interests resulting from Administrative Decisions made by statutory decision makers from time to time during the term of this Agreement that may go beyond the economic component of Lower Similkameen Indian Band's Aboriginal Interests.

- 8.11 The Parties will seek to develop a consultation protocol to further describe consultation on Administrative decisions as outlined in Section 8.0.

9.0 Other Economic Opportunities

- 9.1 Following the execution of this Agreement by the Parties, the Ministry of Forests and Range will work with the Lower Similkameen Indian Band to identify additional forest and range use opportunities, or related economic opportunities of interest to the Lower Similkameen Indian Band within the Traditional Territory.
- 9.2 The Parties may enter into separate agreements specific to opportunities identified in Section 9.1.

10.0 Stability for Land and Resource Use

- 10.1 Lower Similkameen Indian Band will respond immediately to any discussions initiated by the Government of British Columbia and will work co-operatively to assist in resolving any issues that may arise where acts of intentional interference by Lower Similkameen Indian Band members with provincially authorized activities related to forest and/or range resource development activities, including timber harvesting or other forestry economic activities, occur.

11.0 Dispute Resolution

- 11.1 If a dispute arises between the Government of British Columbia and Lower Similkameen Indian Band regarding the interpretation of a provision of this Agreement, the parties or their duly appointed representatives will meet as soon as is practicable to attempt to resolve the dispute.
- 11.2 If the parties are unable to resolve differences at the appropriate level, the interpretation issue will be raised to more senior levels of the Government of British Columbia and Lower Similkameen Indian Band.
- 11.3 The parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

12.0 Term

12.1 This Agreement will take effect on the date on which the last party has executed it.

12.2 This Agreement will terminate on the occurrence of the earliest of any of the following events:

12.2.1 five years from the date this Agreement is executed; or,

12.2.2 the coming into effect of a comprehensive and final land claim resolution between the parties; or,

12.2.3 the mutual agreement of the parties; or,

12.2.4 the date on which the Government of British Columbia cancels the economic benefit(s) under this Agreement pursuant to Section 13; or,

12.2.5 upon written notice of withdrawal from this Agreement by either Party which will take effect 90 days following receipt of the notice by the other Party.

12.3 If this Agreement is terminated in accordance with Section 12.2, then the Minister may terminate the economic benefits under this Agreement.

13.0 Suspension or Cancellation of Economic Benefits by the Minister

13.1 Without limiting the actions that may be taken by the Minister of Forests and Range or by the Government of British Columbia, the Minister or a person authorized by the Minister may suspend or cancel revenue sharing payments and the licence(s) entered into as a result of the invitation under this Agreement, if the Minister or a person authorized by the Minister determines that Lower Similkameen Indian Band is not in compliance with this Agreement.

13.2 Prior to taking any action referred to in Section 13.1, the Government of British Columbia will provide notice to Lower Similkameen Indian Band of any alleged contravention of this Agreement that may lead Lower Similkameen Indian Band being determined to not be in compliance with this Agreement.

13.3 If, during the term of this Agreement, Lower Similkameen Indian Band challenges or supports a challenge to an Administrative Decision and/or Operational Decision or an Operational Plan or activities carried out pursuant to those decisions/plans, by way of legal proceedings or otherwise, on the basis that the economic benefits set out in Section 5.0, and the consultation processes set out in Sections 7.0 and 8.0 of this Agreement are not adequate or sufficient to:

- 13.3.1 provide adequate consultation, to substantially address Lower Similkameen Indian Band's concerns and to provide an interim workable accommodation in respect of any potential infringement of Lower Similkameen Indian Band's Aboriginal Interests with regard to Administrative Decisions relating to forest and/or range resource development activities within the Traditional Territory, or
- 13.3.2 provide adequate consultation, to substantially address the economic component of Lower Similkameen Indian Band's Aboriginal Interests with regard to Operational Decisions relating to forest and/or range resource development activities within the Traditional Territory,

then, without limiting any other remedies that may be available to the Government of British Columbia, the Government of British Columbia may suspend or cancel the economic benefits set out in Section 5.0.

- 13.4 If the Minister or a person authorized by the Minister cancels any economic benefits as a result of this Agreement, then this Agreement may be terminated.

14.0 Renewal of the Agreement

- 14.1 Prior to this Agreement terminating in accordance with Section 12.2, and subject to Section 14.3, if the terms and conditions of this Agreement are being met, the Government of British Columbia and Lower Similkameen Indian Band will seek the necessary authorities and approvals to renew this Agreement.
- 14.2 Any subsequent forestry agreement between the Government of British Columbia and Lower Similkameen Indian Band may provide for an opportunity to acquire a licence, and/or other economic benefits, as well as other terms and conditions that are agreed to by the parties.
- 14.3 The revenue sharing set out in this Agreement reflects an amount that the Government of British Columbia is willing to pay, subject to available appropriations, as an interim measure and Lower Similkameen Indian Band has agreed to accept as an interim measure for the term of this Agreement.

15.0 Amendment of Agreement

- 15.1 Any alteration or amendment to the terms and conditions of the Agreement must be in writing and duly executed by the parties.
- 15.2 Either party may request the participation of the other party to review the effectiveness of this Agreement annually and consider amendments to this Agreement.

16.0 Entire Agreement

- 16.1 This Agreement and any amendments to it constitute the entire Agreement between the parties with respect to the subject matter of this Agreement.

17.0 Notice

- 17.1 Any notice or other communication that is required to be given or that a party wishes to give to the other party with respect to this Agreement will be in writing and will be effective if delivered, sent by registered mail, or transmitted by facsimile to the address of the other as in this section of the Agreement.
- 17.2 Any notice or other communications will be deemed to have been given on the date it is actually received, if received before 4:00 p.m. If received after 4:00 p.m., it will be deemed to have been received on the next business day.
- 17.3 The address of either party may be changed by notice in the manner set out in this section of the Agreement.

British Columbia

Deputy Minister
Ministry of Forests and Range
P.O. Box 9525 STN PROV GOVT
Victoria, B.C. V8W 9C3
Telephone: (250) 387-3656
Facsimile: (250) 953-3687

Lower Similkameen Indian Band

Chief (Ilmik^wum) Barbara Allison (N^wn^wupna) and Council
Lower Similkameen Indian Band
Box 100,
Keremeos, B.C. V0X 1N0
Telephone: (250) 499-5528
Facsimile: (250) 499-5538

18.0 Policy and Legislative Changes

- 18.1 The Parties acknowledge that the British Columbia government is considering policy and legislative changes that may affect this Agreement.
- 18.2 British Columbia agrees to inform Lower Similkameen Indian Band of any such relevant proposed legislative changes as soon as they are publicly available with the intention of discussing the amendment of the Agreement to address such legislative changes.

19.0 Miscellaneous

- 19.1 Nothing in this Agreement shall be interpreted in a manner that requires the Government of British Columbia to act in a manner inconsistent with provincial or federal law, or that fetters the statutory discretion of any government decision-maker.
- 19.2 This Agreement is not a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982* and does not recognize, define, amend, affirm, deny or limit any priorities afforded to aboriginal rights, including aboriginal title, or treaty rights, other than as provided in this Agreement.
- 19.3 Subject to Section 13.3, this Agreement will not limit the positions that a party may take in future negotiations or court actions.
- 19.4 This Agreement shall not be interpreted as addressing any potential infringements other than potential infringements that may result from decisions contemplated by this Agreement during the term of this Agreement. Nothing in this Agreement shall be interpreted to authorize any infringement that may occur following the termination of this Agreement.
- 19.5 This Agreement does not address or affect any claims by the Lower Similkameen Indian Band arising from past interference with its Aboriginal Interests or any future settlement or final resolution of their aboriginal rights and aboriginal title claims.
- 19.6 This Agreement and any licences issued as contemplated by this Agreement do not change or affect the positions either Party has, or may have, regarding jurisdiction and authorities.
- 19.7 Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute and its regulations.
- 19.8 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either party.
- 19.9 The applicable laws of British Columbia and Canada shall govern this Agreement.


19 10 This Agreement may be entered into by each party signing a separate copy of this Agreement, including a photocopy or faxed copy, and delivering it to the other party via facsimile. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

Signed on behalf of:

Lower Similkameen Indian Band

Date: SEPT 30, 2005



Chief Barbara Allison (N^wn upna)


Witness

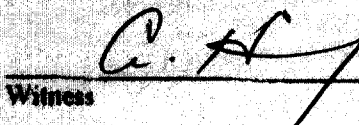
Signed on behalf of:

Government of British Columbia

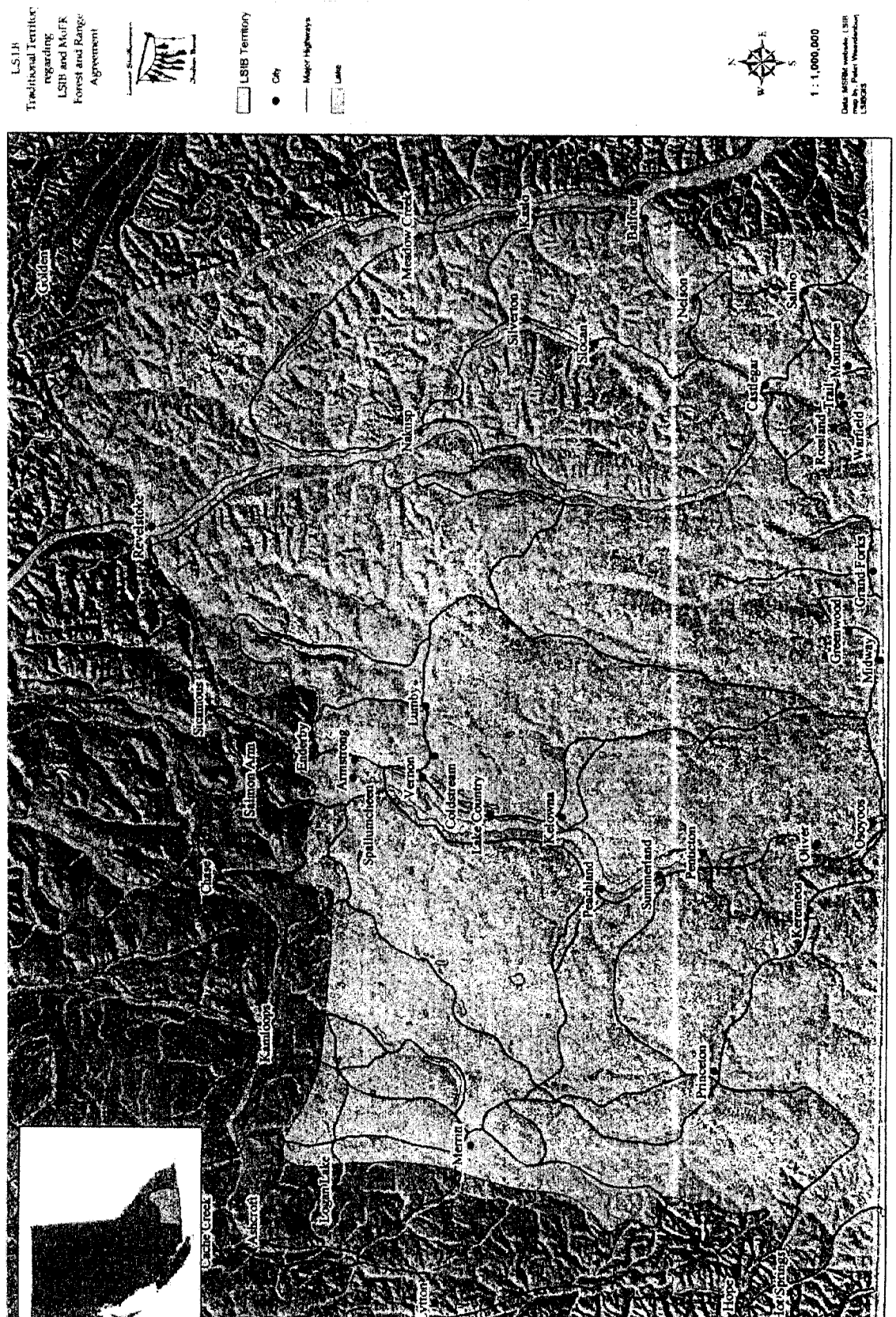
Date: SEPT 30, 2005


Rich Coleman
Minister of Forests and Range
(and Minister Responsible for Housing)

NOV 16/05


Witness

APPENDIX A



APPENDIX B

Description and Documentation pertaining to the Intended Holder of the licence

Please complete part A or B, whichever is appropriate, and attach appropriate documentation:

A) Applicant for the license (i.e. Lower Similkameen Indian Band)

Lower Similkameen Indian Band

OR

B) Full legal name, or corporate description of the legal entity, authorized to represent the applicant of the licence

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- (i) Copy attached of legal instrument (letter) authorizing that legal entity to be their representative;
 - (ii) Copy attached of the ownership structure of the legal entity (the intended holder of the licence); and,
 - (iii) Copy of verification that the applicant has the controlling interest in that legal entity.